

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIEL W. McALEE,	:	
	:	
Plaintiff,	:	CIVIL ACTION
v.	:	
	:	
	:	
INDEPENDENCE BLUE CROSS,	:	NO. 11-156
	:	
Defendant.	:	
	:	
	:	

MEMORANDUM/ORDER

Both parties have filed motions for summary judgment. It appears that neither side can meet the stringent standards to be successful in such motions.

Material facts exist as to whether the plaintiff returned from military leave to a position of equal or similar status. Moreover, it cannot be determined on the record before the court if plaintiff's military status was a motivating factor in the changes that did occur in his job.

Finally, the plaintiff has provided sufficient evidence to create an issue for trial as to whether his discharge from employment was reasonable.

Accordingly, it is hereby **ORDERED** this 21st day of August, 2012, that Defendant's Motion for Summary Judgment (Docket No. 13) and Plaintiff's Cross Motion for Summary Judgment (Docket No. 18) are both **DENIED**.

A **STATUS CONFERENCE** is scheduled for Tuesday, September 25, 2012 at 11:00 a.m. in the chambers of the undersigned.

It is so **ORDERED**.

BY THE COURT:

s/ Ronald L. Buckwalter

RONALD L. BUCKWALTER, S.J.